

## **REMARKS**

### **Status of the Claims**

The final Office Action mailed August 26, 2009 noted that claims 1-21 and 23-33 were pending, rejected claims 1-21, 23-25, and 27-33 and allowed claim 26. Claim 11 is amended. Claim 24 is cancelled. No new claims are added. No new matter is believed to be presented.

It is respectfully submitted that claims 1-21, 23 and 25-33 are pending and under consideration.

### **ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:**

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because: at least certain of the objected claims have been canceled; the amendments of claim 11 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; the amendments do not significantly alter the scope of the claims and place the application at least into a better form for appeal. No new features or new issues are being raised; and the references Durrani, Iwema and Sowden applied to the claims are newly cited in the final Office Action, and Applicant should be provided the opportunity to present patentability arguments and amendments in view thereof. Additionally, rejections are based on reasoning from references which have been previously overcome.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

### **Objection to the Drawings**

The Office Action, on page 2, objected to the drawing under 37 C.F.R. § 1.83(a). A Replacement Drawing is submitted herewith and withdrawal of the objection is respectfully requested. Figure 3 is amended to show that 40 can be located in the left and/or the right corner. It is submitted that the amendment to Figure 3 does not constitute new matter because Figure 3 is supported by the Specification, for example, paragraph [0019] which notes that the command corner may be in both the bottom left hand side of the screen for right handed users

and vice versa for left handed users. Paragraph [0062] provides that the command corner interface may be located on either side of screen and when moved to another side of the screen, the interface is a mirror type of image, as seen in Replacement Figure 3. Furthermore, paragraph [0069] specifically provides that the display may have two command corners active, i.e. one for each hand. Paragraph [0069] also notes that the non-dominant hand operates the command corner to switch color, brushes, modes, etc. while the dominant hand remains relatively stationary where the user is currently drawing with their dominant hand.

### **Claim Objections**

The Office Action, on pages 3-4, objected to claims 11 and 24 for having informalities. Claim 11 is amended and claim 24 is cancelled. Thus withdrawal of the objections is respectfully requested.

### **Rejections under 35 U.S.C. § 103**

The Office Action, on page 5, rejected claims 1-9, 11-14, 20-21, 23-24, 27-29, 31 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Durrani and Iwema. The Office Action, on page 11, rejected claims 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Keely Jr. The Office Action, on page 12, rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Kurtenbach. The Office Action, on page 13, rejected claims 15-18 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema, and Anderson. The Office Action, on page 16, rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema, Anderson, and Kurtenbach. The Office Action, on page 18, rejected claim 32 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Sowden. These rejections are respectfully traversed below.

The Office Action, on page 5, does not list claim 27, but on page 10, provides a cursory rejection by referring to the rejections of claims 1 and 12. Clarification is requested in the next Office Action.

It is respectfully submitted that Durrani does not discuss “**the arc is substantially perpendicular** to a natural motion path of the natural motion,” recited for example, in claim 1. In fact, Durrani does not discuss a natural motion path or discuss a positioning of the arc to be substantially perpendicular to a natural motion path. Nothing in Durrani states that the graphical text wheel is substantially perpendicular to a natural motion path. It is respectfully submitted that the Office Action has improperly applied hindsight to Figure 3 of Durrani to merely assume that Figure 3 shows positioning of the graphical text wheel to be substantially perpendicular to a

natural motion path.

The Office Action, on page 6, in its rejection of claim 1, admitted that Durrani fails to teach the graphical user interface located in a lower right display corner for a left-handed user. The Office Action, on page 6, asserted that Iwema in column 12, lines 1-6 cures the deficiencies of Durrani. Iwema discusses a context menu that is located directly to the left of a stylus when the context menu is initiated if a user is right-handed and directly to the right of a stylus when the context menu is initiated if a user is left-handed. Figures 7A and 7B in Iwema show the display of the context menu, and the context menu is not located in a lower right display corner but rather directly next to the cursor. Iwema specifically notes that that the context menu is oriented to minimize hand and wrist motion.

Thus, it is entirely unclear how one of ordinary skill in the art would have been motivated to place the menu of Iwema in a lower right hand corner, very likely to be oriented to be a distance from a cursor, thereby increasing hand and wrist motion, and the assertion on page 6 of the Office Action is merely one of impermissible hindsight. There is no suggestion to modify Iwema because the Office Action's assertion of locating the menu in the lower right hand corner would render Iwema unsatisfactory for its intended purpose of minimizing hand and wrist motion. One would not want to change the principle of operation in Iwema by always locating the context menu of Iwema in a lower right hand corner or at **an end of range of motion**, as recited in claim 1. (See MPEP 2143.01, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) and "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

In light of the above discussion, it is respectfully submitted that nothing cited or found in Durrani and Iwema, taken alone and in combination, discusses "a graphical user interface area located in a lower left display corner for a right-handed user and in a lower right display corner for a left-handed user responsive to a natural motion by the user associated with **an end of a range of the natural motion**," recited for example, in claim 1. Thus, it is respectfully submitted that Durrani and Iwema do not render claim 1 as *prima facie* obvious.

Independent claim 5 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses "the

arc is substantially perpendicular to a natural motion path of the natural motion” and “an interface area located in a lower left display corner for a right-handed user and in a lower right display corner for a left-handed user responsive to a natural motion by the user and associated with an end of a range of the natural motion.”

Independent claim 12 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “the approach arc is substantially perpendicular to a natural motion path of the natural motion” and “a persistent interface having an interface arc shape, located in a lower left corner of a display area for a right-handed user and in a lower right corner of the display area for a left-handed user...associated with an end of a range of natural motion.”

Independent claim 20 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “a radius responsive to **an underlying menu activatable via one of the controls** and where the arc starts near a first display edge and ends near a second display edge and arc is substantially perpendicular to a natural motion path of the natural motion” and “a persistent graphical user interface in an arc shape at a lower left corner location for a right-handed user and at a lower right corner location for a left-handed user and responsive to an approach arc associated with an end of a range of a natural user motion.” The rejection simply refers to the rejection of claims 1 and 12 and does not specifically discuss and nothing cited or found in Durrani and Iwema discusses an underlying menu activatable via one of the controls.

Independent claim 21 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “a radius responsive to an underlying menu activatable via one of the controls and where the arc starts near a first display edge and ends near a second display edge and is substantially perpendicular to a natural motion path of the natural motion” and “mapping controls of a graphical user interface in an arc shape at a lower left display corner location for a right-handed user and at a lower right display corner location for a left-handed user and responsive to an approach arc associated with an end of a range of a natural user motion.” The rejection simply notes that claim 21 is rejected under the same rationale as claim 5. However, claim 21 recites very differently from claim 5 and does not specifically discuss and nothing cited or found in Durrani and Iwema discusses an underlying menu activatable via one of the controls.

Independent claim 28 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “the

arc shape starts near a first display edge and ends near a second display edge and is substantially perpendicular to a natural motion path of the natural motion” and “positioning a persistent graphical user interface of multiple controls in a lower left corner of the display for a right-handed user and a lower right corner of the display for a left-handed user and associated with an end of a range of a natural user motion.”

Independent claim 31 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “the arc shaped graphic is substantially perpendicular to a natural motion path of the natural motion” and “a fixed position, arc shaped, display edge intersecting menu bar interface graphic located in a lower left display corner for a right-handed user and in a lower right display corner for a left-handed user and responsive to a natural motion by the user associated with an end of a range of the natural motion.”

Independent claim 33 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “defining the interface area where the arc is substantially perpendicular to a natural motion path of the natural motion” and “a graphical user interface area located in a lower left display corner for a right-handed user and in a lower right display corner for a left-handed user and responsive to a natural motion by the user associated with an end of a range of the natural motion.”

Independent claim 15 patentably distinguishes over Durrani, Iwema, and Anderson, taken alone and in combination for the reasons discussed above because nothing cited or found discusses “the arc is substantially perpendicular to a natural motion path of the natural motion” and “a persistent arc shaped graphic located in a lower left corner of a display area for a right-handed user and in a lower right corner of the display area for a left-handed user of the drawing based application associated with an end of a range of a natural motion by the user.”

Independent claim 19 patentably distinguishes over Durrani, Iwema, Anderson, and Kurtenbach taken alone and in combination for the reasons discussed above because nothing cited or found discusses “the arc is substantially perpendicular to a natural motion path of the natural motion,” “a radius of the arc shaped curve is at least a radius of a menu of one of the controls” and “an arc shaped persistent graphic located in a lower left corner of a display area of the drawing based application for a right-handed user and in a lower right corner of the display area of the drawing based application for a left-handed user and responsive to a natural motion by the user wherein the natural motion is a curve associated with movement of a hand of the user when an elbow of the user is pivoted and associated with an end of a range of the natural

motion by a user.”

Independent claim 32 patentably distinguishes over Durrani, Iwema and Sowden, taken alone and in combination, because nothing cited or found discusses “an arc shaped persistent graphic...is substantially perpendicular to a natural motion path of the first and second natural motion” and “a first graphical user interface located in a lower left display corner and responsive to a first natural motion by a user associated with a first end of a range of the first natural motion; and second graphical user interface located in a lower right display corner responsive to a second natural motion by the user associated with a second end of the range of the second natural motion.” The Office Action on page 18 admitted that Durrani and Iwema do not teach two graphical user interfaces, one in the lower right hand corner and one in the lower left hand corner. For the reasons above, Iwema cannot be modified as asserted. Additionally, Sowden’s input devices 103 in Figure 1 are not graphical interfaces.

The Office Action, on page 15, in its rejection of claim 16, notes that claim 16 is rejected over Pitroda, Miyashita, Selker, and Anderson. The Office Action, on page 17, in its rejection of claim 19, notes that claim 19 is rejected over Pitroda, Miyashita, Selker, Anderson, and Kurtenbach. However, these references are now longer cited or applicable. Clarification is respectfully requested in the next Office Action.

The dependent claims depend from the above-discussed independent claims and are patentable over the cited references for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the cited references. For example, claim 7 recites “a radius of the arc shaped curve is at least a radius of a menu of one of the controls.” The Office Action cited Figure 3 of Durrani. However, each letter in Figure 3 does not have “a **menu** associated with the controls.” There is not a menu discussed or depicted associated with the controls. As a non-limiting example, see Figure 13 of this Application. Thus, Figure 3 of Durrani combined with Iwema cannot render claim 8 obvious. Nothing in Figure 3 of Durrani teaches “a control closest to a display area is positioned along the curve at least a radius of a menu of the control from a display edge.” Nothing in Figure 3 of Durrani shows that a control is positioned at least a radius of a menu of the control from a display edge because Durrani does not show a menu of the control. Additionally, claim 9 patentably distinguishes over Durrani and Iwema for the same reasons as in claims 7 and 8.

With respect to claim 16, the Office Action admitted that Durrani, Iwema, and Anderson do not teach the locations of each control in the claim, but then the Office Action asserted that “[a]pplicants have not disclosed that the particular positioning of the menu items solves any

stated problem, provides any advantages, or used for any particular purpose.” This is not a requirement of title 35 of the United States Code, but merely appears to be a request posed by the Office Action. A claim need only be new, useful, novel, and nonobvious. In re Japiske is inapplicable in this instance because as admitted, none of the references provide any location whatsoever. The Office Action cannot assert that a change in location would be within the level of ordinary skill in the art because the Office Action admitted that the references failed to discuss any location. Thus, as admitted by the Office Action, claim 16 patentably distinguishes over Durrani, Iwema, and Anderson and is allowable. Furthermore, the Office Action cites to references which were previously traversed.

With respect to claim 25, Keely Jr. does not discuss “displaying a menu and performing an interaction upon a dwell input.” Keely Jr. does not discuss and is entirely silent regarding a dwell input. Column 7, lines 50-57 of Keely Jr. do not discuss a dwell input as asserted by the Office Action on page 12. This rejection is derived not from Keely Jr. but rather on impermissible hindsight because nothing in Keely Jr. discusses a dwell.

It is submitted that the dependent claims are independently patentable over the cited references.

Withdrawal of the rejections is respectfully requested.

### **Allowable Subject Matter**

The Office Action, on pages 18-19 noted that claim 26 is allowable.

### **Summary**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

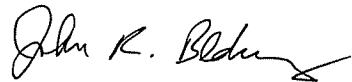
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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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